

STATE OF IOWA  
DEPARTMENT OF COMMERCE  
UTILITIES BOARD

IN RE:  U.S. CELLULAR CORP., COX IOWA TELCOM LLC, AND ILLUMINET, INC.,  Complainants,  vs.  QWEST CORPORATION,  Respondent.	DOCKET NO. FCU-03-24
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**ORDER SETTING PROCEDURAL SCHEDULE**

(Issued August 5, 2004)

On July 11, 2003, the Utilities Board (Board) issued an "Order Docketing Tariff and Complaint and Ordering Filing Be Made" in Docket Nos. TF-03-201 and FCU-03-24. The order required Qwest Corporation (Qwest) and U.S. Cellular Corp., Cox Iowa Telcom LLC, and Illuminet, Inc. (collectively, Complainants), to file a report by August 11, 2003, defining the issues then remaining in this proceeding.<sup>1</sup>

On August 8, 2003, Complainants filed a "Motion for Stay of Discovery or Extension of Time to Respond" (Motion). The Motion indicated that Qwest had

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<sup>1</sup> In an August 18, 2003, "Order Approving Tariff," the Board approved Docket No. TF-03-201, but Docket No. FCU-03-24 was to be kept open. The order affirmed the August 11, 2003, date for Qwest and Complainants to define any outstanding issues.

served Complainants with what amounted to 93 data requests. According to Complainants, the data requests were overly broad, burdensome, and would require coordination between the Complainants to determine a response. Responses to the data requests were due by August 11, 2003, the same day the outstanding issues list was due to be filed with the Board.

On August 11, 2003, Complainants filed their "Report on Outstanding Issues in Complaint Proceeding." Also on August 11, 2003, Qwest filed its "Identification of the Issues Remaining for Decision in this Docket." In these filings, the parties essentially agreed that the outstanding issue was whether Qwest owed Complainants refunds or credits for intrastate Signaling System 7 (SS7) message services previously provided. Complainants were charged for the services pursuant to a Qwest tariff which became effective in 2001. The 2001 tariff was superseded by TF-03-201.

On August 21, 2003, the Complainants and Qwest filed a "Joint Motion to Withdraw Without Prejudice Complainants' August 8, 2003, 'Motion for Stay of Discovery or Extension of Time to Respond'." On the same date, Complainants and Qwest also filed a "Joint Motion to Temporarily Stay Case to Facilitate Settlement Discussions." The parties requested the case be stayed until October 1, 2003, to allow time to determine whether settlement of the case is possible. The parties indicated they were attempting to develop a region-wide settlement of the central issues in this case. In requesting the temporary stay, the parties noted that additional extensions of time may be requested and no party was waiving any issue or

admitting any liability or responsibility by entering into settlement negotiations. The Board reviewed the motions and granted them on January 5, 2004.

On February 3, 2004, Cox filed a motion to withdraw from the complaint. In its motion, Cox indicated that U.S. Cellular and Illuminet were not included in the motion to withdraw and that the complaint should proceed. The Board granted the request of Cox to withdraw from this Complaint and ordered that the remaining parties file a supplemental status report. The parties were also notified that the Board intended to establish a procedural schedule in this matter, unless the parties presented a compelling reason for a further stay.

In response to the Board's direction that a supplemental status report be filed, two supplemental status reports and proposed procedural schedules were filed, one by Qwest and another by U.S. Cellular and Illuminet. All parties indicated that the Board should lift the stay currently in place and establish a schedule for the matter to proceed to hearing. However, U.S. Cellular and Illuminet suggest that hearings should be scheduled as soon after January 31, 2005, as possible, while Qwest suggests that hearings should be scheduled after June 30, 2005, due to other scheduling commitments. The Complainants suggest Direct Testimony be filed in October of 2004, while Qwest proposes that no testimony be filed prior to January 31, 2005.

While the Board is sympathetic to the parties' scheduling conflicts, it does not agree that no filings should be made in this docket until after January 31, 2005, as Qwest has proposed. This matter has already been dragging on for a period of

years. Therefore, the Board will order a schedule culminating with hearings in February of 2005.

**IT IS THEREFORE ORDERED:**

1. The following procedural schedule is established:
  - a. U.S. Cellular Corp. and Illuminet, Inc., shall file prepared direct testimony, with supporting exhibits and workpapers on or before October 15, 2004.
  - b. Qwest Corporation shall file any prepared responsive testimony, with supporting exhibits and workpapers, on or before December 3, 2004.
  - c. U.S. Cellular Corp. and Illuminet, Inc., shall file any prepared reply testimony, with supporting exhibits and workpapers, on or before January 7, 2005.
  - d. All parties shall file any prehearing briefs on or before February 4, 2005.
  - e. A hearing for the purpose of receiving testimony and cross-examination of all testimony will commence at 10 a.m. on February 23, 2005, in the Board's hearing room at 350 Maple Street, Des Moines, Iowa. Parties shall appear at the hearing one-half hour prior to the time of hearing to mark exhibits. Persons with disabilities requiring assistive services or devices to observe or participate should contact the Board at 515-281-5256 to request that appropriate arrangements be made.

2. In the absence of objection, all workpapers shall become a part of the evidentiary record at the time the related testimony and exhibits are entered in the record.

3. In the absence of objection, all data requests and responses referred to in oral testimony or cross-examination shall become a part of the evidentiary record. The party making reference to the data request or response shall file an original and six copies at the earliest possible time.

4. In the absence of objection, if the Board calls for further evidence on any issue and that evidence is filed after the close of hearing, the evidentiary record shall be reopened and the evidence will become a part of the evidentiary record five days after filing. All evidence filed pursuant to this paragraph shall be filed no later than seven days after the close of the hearing.

**UTILITIES BOARD**

/s/ Diane Munns

/s/ Mark O. Lambert

ATTEST:

/s/ Sharon Mayer  
Executive Secretary, Assistant to

Dated at Des Moines, Iowa, this 5<sup>th</sup> day of August, 2004.